

TERESA ERXLEBEN, )  
)  
Plaintiff, )  
)  
v. ) Case No. 4:05CV1800 RWS  
)  
MICHAEL J. ASTRUE,<sup>1</sup> )  
Commissioner of Social Security, )  
)  
Defendant. )

The Court referred this matter to United States Magistrate Judge Lewis M. Blanton for a report and recommendation on all dispositive matters pursuant to 28 U.S.C. § 636(b). On February 20, 2007, Judge Blanton filed his recommendation that the decision of the Commissioner denying plaintiff's application for a Period of Disability and Disability Insurance Benefits under Title II of the Social Security Act be reversed. Judge Blanton recommended that the case either be remanded to the Commissioner for further proceedings, or in the alternative, that benefits be awarded.

<sup>1</sup>Michael J. Astrue became the Commissioner of Social Security on February 12, 2007. Pursuant to Rule 25(d)(1) of the Federal Rules of Civil Procedure, Astrue should be substituted, therefore, for Commissioner Jo Anne B. Barnhart as Defendant in this suit. No further action need be taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

Defendant objects to Judge Blanton's Report and Recommendation. In support of his argument that the ALJ's decision should be affirmed, defendant contends that the ALJ properly considered the opinions of plaintiff's treating physicians in reaching his conclusion that plaintiff was not disabled. I have reviewed the entire file de novo, and after careful consideration, I agree with Judge Blanton that the decision of the ALJ should be reversed for the reasons stated in his Report and Recommendation. I will therefore overrule defendant's objections and adopt and sustain the thorough reasoning of Judge Blanton. However, I will remand this action to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings consistent with the Report and Recommendation adopted herein.

Accordingly,

**IT IS HEREBY ORDERED** that the Report and Recommendation dated February 20, 2007 is adopted in its entirety, except for Judge Blanton's alternative recommendation that benefits be awarded, which is overruled as moot given the Court's adoption of Judge Blanton's recommendation that this case be remanded to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings.

**IT IS FURTHER ORDERED** that the decision of the Commissioner is reversed and the case is remanded to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings consistent with this Memorandum and Order adopting the Report and Recommendation dated February 20, 2007.

A separate judgment in accord with this Memorandum and Order is entered this date.

  
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RODNEY W. SIPPEL  
UNITED STATES DISTRICT JUDGE

Dated this 9th day of March, 2007.